

REMARKS/ARGUMENTS

Claims 2-48 are in the case. Claims 1 and 49-63 have been cancelled without prejudice, reserving the right to file a continuation application directed to the subject matter of claims 1 and 49-63.

It is respectfully submitted that amendments relating to the “calculated amount of the fluid to be infused” features are made to clarify those features and do not narrow the scope of the claimed inventions.

The Examiner has rejected claims 1-63 as anticipated by U.S. Pat. Publication 2002/0019606, hereinafter the Lebel reference. This rejection is respectfully traversed.

Claim 2 as amended is directed to an “infusion system for infusing a fluid into a body of a user, the infusion system comprising: a physiological monitoring device comprising: a monitoring device processor; a sensor coupled to the monitoring device processor and adapted to provide an output signal as a function of a concentration of an analyte in the user; and a monitoring device communication circuit coupled to the monitoring device processor; wherein the monitoring device processor is adapted to: calculate an amount of the fluid to be infused into the user’s body based upon the output signal; and cause the monitoring device communication circuit to transmit a first set of data indicative of the calculated amount of the fluid to be infused; and a medication infusion device comprising: an infusion device processor; a drive mechanism coupled to the infusion device processor and adapted to infuse the fluid into the body of the user; and an infusion device communication circuit coupled to the infusion device processor and adapted to receive the first set of data from the monitoring device communication circuit; wherein the infusion device processor is adapted to cause the drive mechanism to infuse the fluid into the body of the user in accordance with the first set of data indicative of the calculated amount of the fluid to be infused; and wherein the physiological monitoring device is adapted to be carried by the user on an exterior of the body of the user and the medication infusion device is adapted to be carried by the user on an exterior of the body of the user.

It is the Examiner’s position that the Lebel reference discloses an apparatus “comprising a sensor that provides an output signal as a function of a concentration of an analyte, a communication circuit couple[d] to the monitoring device, wherein the processor is adapted to calculate an amount of fluid infused into the patient’s body, and transmit a set of data indicative

of the amount of fluid" and an infusion device "comprising a processor, a drive mechanism, and a circuit, the monitoring device comprising a transmitter and the infusion device comprising a receiver" citing page 2, paragraph 19 of the Lebel reference. The applicants respectfully disagree.

The Examiner's citations to the Lebel reference discuss a medical device and a communication device in which messages are passed between the devices. However, the Examiner has failed to cite any teaching or suggestion of a communication device which calculates an amount of fluid to be infused based on a sensor output and transmits data indicative of such calculated amount to an infusion device which infuses the calculated amount into the user's body in the manner recited in claim 2, for example. More specifically, the Examiner's citation (page 2, paragraph 19) to the Lebel reference fails to provide any teaching or suggestion of the recited combination of features including, for example, "a sensor coupled to the monitoring device processor and adapted to provide an output signal as a function of a concentration of an analyte in the user; and a monitoring device communication circuit coupled to the monitoring device processor; wherein the monitoring device processor is adapted to: calculate an amount of the fluid to be infused into the user's body based upon the output signal; and cause the monitoring device communication circuit to transmit a first set of data indicative of the calculated amount of the fluid to be infused" as required by claim 2. Still further, the Examiner's citation (page 2, paragraph 19) to the Lebel reference fails to provide any teaching or suggestion of the recited combination of features including, for example, "an infusion device communication circuit coupled to the infusion device processor and adapted to receive the first set of data from the monitoring device communication circuit; wherein the infusion device processor is adapted to cause the drive mechanism to infuse the fluid into the body of the user in accordance with the first set of data indicative of the calculated amount of the fluid to be infused" as required by claim 2.

The Examiner's remaining citations to the Lebel reference are similarly deficient.

Independent claims 35 and 41 may be distinguished in a similar fashion. The rejection of the dependent claims is improper for the reasons given above. Moreover, the dependent claims include additional limitations, which in combination with the base and intervening claims from which they depend provide still further grounds of patentability over the cited art.

For example, dependent claim 4 further recites “wherein the physiological monitoring device is a blood glucose test strip monitor, and wherein the medication infusion device is an insulin infusion pump.” The Examiner’s citation (page 2, paragraph 21) to the Lebel reference fails to provide any teaching or suggestion of the recited combination of features including “wherein the monitoring device processor [of the blood glucose test strip monitor] is adapted to: calculate an amount of the fluid to be infused into the user’s body based upon the output signal [of the blood glucose test strip monitor]; and cause the monitoring device communication circuit [of the blood glucose test strip monitor] to transmit a first set of data indicative of the calculated amount of the fluid to be infused” as required by claim 4. As a further example, the Examiner’s citation (page 2, paragraph 21) to the Lebel reference fails to provide any teaching or suggestion of the recited combination of features including “an infusion device communication circuit [of the insulin infusion pump] coupled to the infusion device processor [of the insulin infusion pump] and adapted to receive the first set of data from the monitoring device communication circuit [of the blood glucose test strip monitor]; wherein the infusion device processor [of the insulin infusion pump] is adapted to cause the drive mechanism [of the insulin infusion pump] to infuse the fluid into the body of the user in accordance with the first set of data indicative of the calculated amount of the fluid to be infused” as required by claim 4.

Dependent claims 37 and 42 may be distinguished in a similar fashion.

The Examiner has made various comments concerning the anticipation or obviousness of certain features of the present inventions. Applicants respectfully disagree. Applicants have addressed those comments directly hereinabove or the Examiner’s comments are deemed moot in view of the above response.

Conclusion

For all the above reasons, Applicants submit that the pending claims 2-48 are patentable over the art of record. Applicants have not added any claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 50-0585.

The attorney of record invites the Examiner to contact him at (310) 553-7970 if the Examiner believes such contact would advance the prosecution of the case.

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